

Adopted	Rejected
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## COMMITTEE REPORT

YES:	12
NO:	1

### MR. SPEAKER:

*Your Committee on Public Policy, Ethics and Veterans Affairs, to which was referred House Bill 1638, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Page 15, between lines 10 and 11, begin a new paragraph and insert:
- 2 "SECTION 17. IC 7.1-1-3-18.5 IS ADDED TO THE INDIANA
- 3 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 4 [EFFECTIVE JULY 1, 2001]: **Sec. 18.5. "Grocery store" means any**
- 5 **store commonly known as a:**
- 6 **(1) supermarket;**
- 7 **(2) food store; or**
- 8 **(3) grocery store.**
- 9 Page 15, delete lines 20 through 26.
- 10 Page 17, line 29, delete "Subsection" and insert "**Except as**
- 11 **provided in section 28(d) of this chapter, subsection**".
- 12 Page 19, line 24, delete "Subsections" and insert "**Except as**
- 13 **provided in section 28(d) of this chapter, subsections**".
- 14 Page 21, line 40, delete "that may" and insert ".".
- 15 Page 21, delete lines 41 through 42.

- 1 Page 22, delete lines 1 through 3.
- 2 Page 22, line 4, delete "prohibit this type of fee."
- 3 Page 21, run in line 40 through page 22, line 4.
- 4 Page 22, between lines 5 and 6, begin a new paragraph and insert:
- 5 "SECTION 27. IC 7.1-3-1-25, AS AMENDED BY P.L.136-2000,
- 6 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 7 JULY 1, 2001]: Sec. 25. (a) A city or county listed in this subsection
- 8 that by itself or in combination with any other municipal body acquires
- 9 by ownership or by lease any stadium, exhibition hall, auditorium,
- 10 theater, convention center, or civic center may permit the retail sale of
- 11 alcoholic beverages upon the premises if the governing board of the
- 12 facility first applies for and secures the necessary permits as required
- 13 by this title. The cities and counties to which this subsection applies are
- 14 as follows:
- 15 (1) A consolidated city or its county.
- 16 (2) A city of the second class.
- 17 (3) A county having a population of more than one hundred thirty
- 18 thousand six hundred (130,600) but less than two hundred
- 19 thousand (200,000).
- 20 (4) A county having a population of more than three hundred
- 21 thousand (300,000) but less than four hundred thousand
- 22 (400,000).
- 23 (5) A city having a population of less than ten thousand (10,000)
- 24 that is located in a county having a population of more than four
- 25 hundred thousand (400,000) but less than seven hundred thousand
- 26 (700,000).
- 27 (6) A county having a population of more than one hundred eight
- 28 thousand nine hundred fifty (108,950) but less than one hundred
- 29 twelve thousand (112,000).
- 30 (7) A county having a population of more than one hundred eight
- 31 thousand (108,000) but less than one hundred eight thousand nine
- 32 hundred fifty (108,950).
- 33 (b) A county having a population of more than four hundred
- 34 thousand (400,000) but less than seven hundred thousand (700,000) or
- 35 a township located in such a county that has established a public park
- 36 with a golf course within its jurisdiction under IC 36-10-3 or
- 37 IC 36-10-7 may be issued a permit for the retail sale of alcoholic
- 38 beverages on the premises of any community center within the park,

1 including a clubhouse, social center, or pavilion.

2 (c) A township that:

3 (1) is located in a county having a population of more than one  
4 hundred thousand (100,000) but less than one hundred seven  
5 thousand (107,000); and

6 (2) acquires ownership of a golf course;

7 may permit the retail sale of alcoholic beverages upon the premises of  
8 the golf course, if the governing board of the golf course first applies  
9 for and secures the necessary permits required by this title.

10 (d) A township:

11 (1) having a population of more than thirty thousand (30,000) and  
12 less than seventy-five thousand (75,000); and

13 (2) located in a county having a population of more than four  
14 hundred thousand (400,000) but less than seven hundred thousand  
15 (700,000);

16 may be issued a permit for the retail sale of alcoholic beverages on the  
17 premises of any community center or social center that is located  
18 within the township and operated by the township.

19 (e) A city that:

20 (1) has a population of:

21 (A) more than fifty-eight thousand (58,000) but less than sixty  
22 thousand (60,000); or

23 (B) more than forty thousand (40,000) but less than forty-three  
24 thousand (43,000); and

25 (2) owns a golf course;

26 may permit the retail sale of alcoholic beverages upon the premises of  
27 the golf course if the governing board of the golf course first applies for  
28 and secures the necessary permits required by this title.

29 (f) A city that:

30 (1) has a population of more than thirty-three thousand eight  
31 hundred fifty (33,850) but less than thirty-five thousand (35,000);  
32 and

33 (2) owns or leases a marina;

34 may permit the retail sale of alcoholic beverages upon the premises of  
35 the marina, if the governing board of the marina first applies for and  
36 secures the necessary permits required by this title. The permit may  
37 include the carryout sale of alcoholic beverages in accordance with  
38 IC 7.1-3-4-6(c), IC 7.1-3-9-9(c), IC 7.1-3-14-4(c), and 905 IAC 1-29

1 but may not include at-home delivery of alcoholic beverages.

2 (g) A city listed in this subsection that owns a marina may be issued  
 3 a permit for the retail sale of alcoholic beverages on the premises of the  
 4 marina. The permit may include the carryout sale of alcoholic  
 5 beverages in accordance with IC 7.1-3-4-6(c), IC 7.1-3-9-9(c),  
 6 IC 7.1-3-14-4(c), and 905 IAC 1-29 but may not include at-home  
 7 delivery of alcoholic beverages. However, the city must apply for and  
 8 secure the necessary permits that this title requires. This subsection  
 9 applies to the following cities:

10 (1) A city having a population of more than one hundred ten  
 11 thousand (110,000) but less than one hundred twenty thousand  
 12 (120,000).

13 (2) A city having a population of more than seventy-five thousand  
 14 (75,000) but less than ninety thousand (90,000).

15 (3) A city having a population of more than thirty-three thousand  
 16 (33,000) but less than thirty-three thousand eight hundred fifty  
 17 (33,850).

18 (4) A city having a population of more than twenty-seven  
 19 thousand (27,000) but less than thirty thousand (30,000).

20 (5) A city having a population of more than twenty-one thousand  
 21 eight hundred thirty (21,830) but less than twenty-three thousand  
 22 (23,000).

23 (h) Notwithstanding subsection (a), the commission may issue a  
 24 civic center permit to a person that:

25 (1) by the person's self or in combination with another person is  
 26 the proprietor, as owner or lessee, of an entertainment complex;  
 27 or

28 (2) has an agreement with a person described in subdivision (1)  
 29 to act as a concessionaire for the entertainment complex for the  
 30 full period for which the permit is to be issued.

31 **(i) A city that:**

32 **(1) has a population of more than twenty-seven thousand**  
 33 **(27,000) but less than thirty thousand (30,000); and**

34 **(2) has a department of parks and recreation that owns or**  
 35 **leases any:**

36 **(A) stadium;**

37 **(B) exhibition hall;**

38 **(C) marina; or**

(D) golf course clubhouse or community center;  
 may permit the retail sale of alcoholic beverages upon the premises  
 of its department of parks and recreation owned or leased  
 properties if the governing board of the department of parks and  
 recreation first applies for and secures the necessary permits  
 required by this title. The permit may include the carryout sale of  
 alcoholic beverages in accordance with IC 7.1-3-4-6(c),  
 IC 7.1-3-9-9(c), and 905 IAC 1-29 but may not include at-home  
 delivery of alcoholic beverages."

Page 22, line 13, delete "posted a" and insert "provided".

Page 22, line 15, delete "The" and insert "**Except as provided in  
 subsection (d), the**".

Page 22, line 18, delete "beer".

Page 22, line 18, after "retailer's" insert "**or dealer's**".

Page 22, between lines 29 and 30, begin a new paragraph and insert:

**"(d) This subsection applies to a county having a consolidated  
 city. If the application is for a permit for a location that is not  
 located within the boundaries of the special fire service district, as  
 determined in conformity with IC 7.1-3-22-8, the applicant may:**

**(1) post notice of the application as set forth in subsection (c);**

**or**

**(2) mail notice in accordance with:**

**(A) section 5.5 of this chapter if the application is for a new  
 permit or transfer of a permit; or**

**(B) section 5.6 of this chapter if the application is for  
 renewal of a permit."**

Page 29, line 5, delete "1971," and insert "~~1971~~".

Page 29, line 12, delete "1971," and insert "~~1971~~".

Page 29, between lines 13 and 14, begin a new paragraph and insert:

**"SECTION 41. IC 7.1-4-1-44 IS AMENDED TO READ AS  
 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 44. The ~~commission~~  
 may not charge an annual registration fee for a primary source of  
 supply (as defined in IC 7.1-1-3-32.5). ~~is one hundred dollars (\$100).~~"**

Page 29, line 18, delete "the following" and insert "**an annual  
 registration of a primary source of supply (as defined in  
 IC 7.1-1-3-32.5)**".

Page 29, line 18, delete ":" and insert ".".

Page 29, delete lines 19 through 21, begin a new paragraph and

1 insert:

2 **"Sec. 2. The fee for a supplemental caterer's permit is five**  
3 **dollars (\$5) per event."**

4 Page 29, line 22, delete "2" and insert "3".

5 Page 29, line 28, delete "3" and insert "4".

6 Page 29, line 31, delete "4" and insert "5".

7 Page 30, line 4, delete "5" and insert "6".

8 Page 30, line 9, delete "6" and insert "7".

9 Page 30, between lines 11 and 12, begin a new line blocked left and  
10 insert **"is fifty dollars (\$50) if the need for the letter of extension, or**  
11 **renewal, is occasioned by the act or omission of the permittee. The**  
12 **commission shall waive the fee for a letter of extension, and a**  
13 **renewal, if the need for the letter of extension, or renewal, is**  
14 **occasioned by the act or omission of the commission, a local board,**  
15 **or a third party unrelated to the permittee involved and not**  
16 **employed by the permittee or under the control of the permittee."**

17 Page 30, delete line 12.

18 Page 30, line 13, delete "7" and insert "8".

19 Page 30, line 15, delete "8" and insert "9".

20 Page 31, line 2, delete ", only liquor,".

21 Page 31, line 3, delete ":".

22 Page 31, line 4, delete "(A)".

23 Page 31, line 4, delete ";" and insert ".".

24 Page 31, delete lines 5 through 6.

25 Page 31, line 17, delete "9" and insert "10".

26 Page 31, line 20, delete "10" and insert "11".

27 Page 31, line 23, delete "11" and insert "12".

28 Page 31, line 42, delete "12" and insert "13".

29 Page 32, line 8, delete "13" and insert "14".

30 Page 32, line 9, delete "." and insert **"for the manufacture of more**  
31 **than twenty thousand (20,000) barrels of beer in a calendar year."**

32 Page 32, line 17, delete "14" and insert "15".

33 Page 32, line 17, delete "two" and insert "five".

34 Page 32, line 17, after "hundred" insert **"dollars (\$500)."**

35 Page 32, delete line 18.

36 Page 32, between lines 18 and 19, begin a new paragraph and insert:

37 **"Sec. 16. The annual fee for a brewer's permit for the**  
38 **manufacture of not more than twenty thousand (20,000) barrels of**

1 **beer in a calendar year is five hundred dollars (\$500).**

2 SECTION 43. IC 7.1-4-6-2.1 IS AMENDED TO READ AS  
3 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2.1. (a) The department  
4 shall adopt rules ~~and regulations~~ under IC 4-22-2 to govern the  
5 assessment and collection of penalties provided in IC 7.1-4-6-2.

6 **(b) The commission may adopt rules under IC 4-22-2 to**  
7 **coordinate compliance with the laws, rules, and administrative**  
8 **policies governing the assessment and collection of sales taxes."**

9 Page 32, line 27, after "under" insert "**IC 7.1-2-5-3, IC 7.1-2-5-8,**".

10 Page 32, line 35, delete "1971," and insert "~~1971,~~".

11 Page 33, line 7, delete "1971," and insert "~~1971,~~".

12 Page 33, line 8, delete "1971," and insert "~~1971,~~".

13 Page 33, delete lines 11 through 21.

14 Page 35, between lines 19 and 20, begin a new paragraph and insert:

15 "SECTION 55. IC 7.1-5-8-4, AS AMENDED BY P.L.136-2000,  
16 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
17 JULY 1, 2001]: Sec. 4. (a) It is unlawful for a person who owns or  
18 operates a private or public restaurant or place of public or private  
19 entertainment to permit another person to come into the establishment  
20 with an alcoholic beverage for sale or gift, or for consumption in the  
21 establishment by that person or another, or to serve a setup to a person  
22 who comes into the establishment. However, the provisions of this  
23 section shall not apply to the following:

24 (1) A private room hired by a guest of a bona fide club or hotel  
25 that holds a retail permit.

26 (2) A facility that is used in connection with the operation of a  
27 paved track ~~of more than two (2) miles in length~~ that is used  
28 primarily in the sport of auto racing.

29 (b) An establishment operated in violation of this section is declared  
30 to be a public nuisance and subject to abatement as other public  
31 nuisances are abated under the provisions of this title.

32 SECTION 56. IC 7.1-5-8-5, AS AMENDED BY P.L.136-2000,  
33 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
34 JULY 1, 2001]: Sec. 5. (a) This section does not apply to a person who,  
35 on or about a licensed premises, carries, conveys, or consumes beer or  
36 wine:

37 (1) described in IC 7.1-1-2-3(a)(4); and

38 (2) not sold or offered for sale.

(b) This section does not apply to a person at a facility that is used in connection with the operation of a paved track ~~more than two (2) miles in length~~ that is used primarily in the sport of auto racing.

(c) It is a Class C misdemeanor for a person, for the person's own use, to knowingly carry on, convey to, or consume on or about the licensed premises of a permittee, an alcoholic beverage that was not then and there purchased from that permittee.

SECTION 57. IC 7.1-5-11-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1.5. (a) **Except as provided in subsection (c)**, it is unlawful for a person in the business of selling alcoholic beverages in another state or country to ship or cause to be shipped an alcoholic beverage directly to an Indiana resident who does not hold a valid wholesaler permit under this title. This includes the ordering and selling of alcoholic beverages over a computer network (as defined by IC 35-43-2-3(a)).

(b) Upon a determination by the commission that a person has violated subsection (a), a wholesaler may not accept a shipment of alcoholic beverages from the person for a period of up to one (1) year as determined by the commission.

(c) **A primary source may sell and ship or have shipped not more than two (2) cases of wine during a calendar year from the location described in the primary source's basic permit from the federal Bureau of Alcohol, Tobacco, and Firearms to an adult resident of Indiana if the following conditions are met:**

**(1) A primary source must ensure that the person purchasing the wine is:**

**(A) a resident of Indiana; and**

**(B) at least twenty-one (21) years of age.**

**(2) The person purchasing the wine is physically at the location described in the basic permit from the federal Bureau of Alcohol, Tobacco, and Firearms at the time of purchase.**

**(3) The invoice of the sale accompanies the shipment and contains the following:**

**(A) The primary source's name, address, and federal Bureau of Alcohol, Tobacco, and Firearms basic permit number.**

**(B) The name and address of the Indiana resident to whom the sale is being made and address where the wine is being**



1 shipped.

2 (C) The method used by the primary source to ensure that  
3 the person purchasing the wine is at least twenty-one (21)  
4 years of age and a resident of Indiana on the date of the  
5 purchase.

6 (D) A notarized affidavit signed by the person making the  
7 purchase stating that the wine is being shipped to and used  
8 for personal consumption by the person making the  
9 purchase.

10 (d) The commission shall adopt rules under IC 4-22-2 to implement  
11 this section."

12 Page 36, line 1, delete "The" and insert "**For** the".

13 Page 36, line 10, delete "the civil penalty is imposed" and insert  
14 "**final judgment**".

15 Page 41, line 15, strike "as a means of promoting, advertising, or  
16 marketing the" and insert ".".

17 Page 41, strike line 16.

18 Page 41, between lines 25 and 26, begin a new paragraph and insert:

19 "SECTION 66. IC 35-46-1-10.2, AS AMENDED BY P.L.14-2000,  
20 SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
21 JULY 1, 2001]: Sec. 10.2. (a) A retail establishment that sells or  
22 distributes tobacco to a person less than eighteen (18) years of age  
23 commits a Class C infraction. For a sale to take place under this  
24 section, the buyer must pay the retail establishment for the tobacco  
25 product. Notwithstanding IC 34-28-5-4(c), a civil judgment for an  
26 infraction committed under this section must be imposed as follows:

27 (1) If the retail establishment at that specific business location has  
28 not been issued a citation or summons for a violation of this  
29 section in the previous ninety (90) days, a civil penalty of fifty  
30 dollars (\$50).

31 (2) If the retail establishment at that specific business location has  
32 had one (1) citation or summons issued for a violation of this  
33 section in the previous ninety (90) days, a civil penalty of one  
34 hundred dollars (\$100).

35 (3) If the retail establishment at that specific business location has  
36 had two (2) citations or summonses issued for a violation of this  
37 section in the previous ninety (90) days, a civil penalty of two  
38 hundred fifty dollars (\$250).

(4) If the retail establishment at that specific business location has had three (3) or more citations or summonses issued for a violation of this section in the previous ninety (90) days, a civil penalty of five hundred dollars (\$500).

A retail establishment may not be issued a citation or summons for a violation of this section more than once every twenty-four (24) hours for each specific business location.

(b) It is not a defense that the person to whom the tobacco was sold or distributed did not smoke, chew, or otherwise consume the tobacco.

(c) The following defenses are available to a retail establishment accused of selling or distributing tobacco to a person who is less than eighteen (18) years of age:

(1) The buyer or recipient produced a driver's license bearing the purchaser's or recipient's photograph showing that the purchaser or recipient was of legal age to make the purchase.

(2) The buyer or recipient produced a photographic identification card issued under IC 9-24-16-1 or a similar card issued under the laws of another state or the federal government showing that the purchaser or recipient was of legal age to make the purchase.

(3) The appearance of the purchaser or recipient was such that an ordinary prudent person would believe that the purchaser or recipient was not less than the age that complies with regulations promulgated by the federal Food and Drug Administration.

(d) It is a defense that the accused retail establishment sold or delivered the tobacco to a person who acted in the ordinary course of employment or a business concerning tobacco:

(1) agriculture;

(2) processing;

(3) transporting;

(4) wholesaling; or

(5) retailing.

(e) As used in this section, "distribute" means to give tobacco to another person. ~~as a means of promoting, advertising, or marketing the tobacco to the general public.~~

(f) Unless a person buys or receives tobacco under the direction of a law enforcement officer as part of an enforcement action, a retail establishment that sells or distributes tobacco is not liable for a violation of this section unless the person less than eighteen (18) years

1 of age who bought or received the tobacco is issued a citation or  
 2 summons under section 10.5 of this chapter.

3 (g) Notwithstanding IC 34-28-5-4(c), civil penalties collected under  
 4 this section must be deposited in the youth tobacco education and  
 5 enforcement fund (IC 7.1-6-2-6).".

6 Page 42, delete lines 14 through 42, begin a new paragraph and  
 7 insert:

8 "SECTION 68. IC 35-46-1-11.3, AS AMENDED BY P.L. 177-1999,  
 9 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 10 JULY 1, 2001]: Sec. 11.3. (a) This section does not apply to  
 11 advertisements that are less than fourteen (14) square feet and posted:

12 (1) at street level in the window or on the exterior of a business  
 13 property or establishment where tobacco products are  
 14 manufactured, distributed, or sold; or

15 (2) on vehicles.

16 (b) ~~After May 13, 1999,~~ A person may not advertise or cause to be  
 17 advertised tobacco products on a billboard or an outdoor advertisement  
 18 ~~that where the tobacco advertising~~ occupies an area that exceeds  
 19 fourteen (14) square feet, including any advertisement that functions  
 20 as a segment of a larger **tobacco** advertising unit or series. **The**  
 21 **Indiana alcoholic beverage commission may adopt rules under**  
 22 **IC 4-22-2 to determine how to measure the tobacco product**  
 23 **advertising on a sign that contains both tobacco product**  
 24 **advertising and advertising that is not tobacco related. The rules**  
 25 **may not allow the frame of the sign or other structural parts that**  
 26 **only serve to support the sign to be included in the tobacco**  
 27 **advertising measurement.**

28 (c) A person who violates this section commits a Class C infraction.  
 29 An advertisement that is in violation of this section must be removed  
 30 not more than ten (10) days after a citation or summons has been  
 31 issued. Notwithstanding IC 34-28-5-4(c), if an advertisement that is in  
 32 violation of this section is not removed not more than ten (10) days  
 33 after a citation or summons has been issued, a civil judgment for an  
 34 infraction committed under this section must include a civil penalty of  
 35 one hundred dollars (\$100) for each day that the advertisement was in  
 36 violation of this section.

37 (d) Notwithstanding IC 34-28-5-4(c), civil penalties collected under  
 38 this section must be deposited in the youth tobacco education and

- 1 enforcement fund (IC 7.1-6-2-6).".
- 2 Page 43, delete lines 1 through 8.
- 3 Page 44, line 9, delete "7.1-4-1.1, as amended" and insert "**7.1-4-4.1,**
- 4 **as added**".
- 5 Page 44, line 11, delete "7.1-4-1.1-6" and insert "**7.1-4-4.1-5**".
- 6 Renumber all SECTIONS consecutively.  
(Reference is to HB 1638 as introduced.)

**and when so amended that said bill do pass.**

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Representative Kuzman